



UNITED STATES PATENT AND TRADEMARK OFFICE

Technology Center 1700

Mailed: DEC 13 2004

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Paper Number: \_\_\_\_\_

In re application of :  
Tsutomu Shoki : DECISION ON  
Serial No. 09/052,670 : PETITION  
Filed: March 31, 1998 :  
For: X-RAY MASK BLANK AND X-RAY MASK :

This is a response to the PETITION FOR WITHDRAWAL OF ABANDONMENT, filed April 12, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of April 19, 2000, for failure to timely pay the issue fee as indicated in Notice of Allowability and Notice of Allowance and Issue Fee Due mailed August 25, 1999 be withdrawn. The petitioner asserts that the Notice of Allowability and Notice Of Allowance and Issue Fee Due were not received by applicant.

**DECISION**

The instant request is accepted as a petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action. See MPEP 711.03(c)(II).

The evidence presented is insufficient to establish that the above noted Notice of Allowability and Notice of Allowance and Issue Fee Due were not received by the petitioner. As set forth in MPEP 711.03(c) II- PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION :

“The showing required to establish the nonreceipt of an Office communication must include a statement from the practitioner stating that Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. **A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in the practitioner’s statement.**” (emphasis added)



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The evidence provided includes a statement by the petitioner that the petitioner has reviewed his file and the Firm's records and discovered that neither the petitioner nor his firm had ever received the Notice of Allowability and Notice of Allowance and Issue Fee Due.

However, the instant petition fails to submit a copy of the docket record where the nonreceived Notice of Allowability and Notice of Allowance and Issue Fee Due would have been entered had it been received.

Furthermore, a review of the instant application file indicates that the Notice of Allowability and Notice of Allowance and Issue Fee Due were mailed to an old address of the petitioner in the record, which is :

EDWARD D. MANZO  
COOK MCFARRON & MANZO  
135 SOUTH LASALLE STREET  
SUITE 4100  
CHICAGO, IL 60603

The applicant has not filed a notification of mailing address change to the USPTO. It is noted in the PETITION FOR AN EXTENSION OF TIME PURSUANT TO 37 C.F.R.1.136(a) and Amendment filed July 19,1999, the attorney provided a new address, which is :

COOK, McFARRON & MANZO, LTD  
200 WEST ADAMS STREET, SUITE 2850  
CHICAGO, IL 60606

However, the mere inclusion, in the papers filed in the instant application for another purpose, of an address differing from the previously provided correspondence address does not constitute a proper notification of a change in



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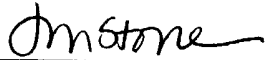
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correspondence address. Since the applicant has not promptly informed the Office of any change of correspondence address according to MPEP 601.03, therefore, the request can not be granted.

Accordingly, this application stands abandoned.

The Petition is **DENIED**.



Jacqueline Stone, Director  
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